

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Rosa Hamilton,)	C/A No.: 3:19-443-SVH
)	
Plaintiff,)	
vs.)	ORDER
)	
Food Lion, LLC,)	
)	
Defendant.)	
)	

This matter was removed to this court based on the assertion of diversity jurisdiction under 28 U.S.C. §1332. Jurisdiction under this section exists when the parties have complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of interests and costs. The amount in controversy requirement is tested at the time of removal. When an unspecified amount of damages is claimed, the amount is satisfied for purposes of remand unless it appears to a legal certainty that plaintiff *cannot* recover damages in excess of \$75,000. Wright, Miller & Cooper, *Federal Practice and Procedure* §3725 (1985 and Supp. 1998). Frequently, these requirements are satisfied when actual and punitive damages are sought and plaintiff has not affirmatively pled a cap on damages or otherwise limited the amount of damages sought prior to the time of removal. Limitations on damages after removal do not affect jurisdiction; however, clarifications of the amount sought at the time of removal may result in remand. *See St. Paul Mercury Indemnity*

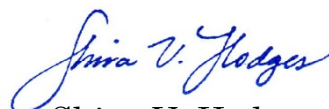
Co. v. Red Cab Co., 303 U.S. 283, 292 (1938) (post-removal amendment does not affect jurisdiction); *Cole v. Great Atlantic & Pacific Tea Co.*, 728 F. Supp. 1305 (E.D. Ky. 1990) (ambiguous demands may be subject to post-removal clarification); Wright & Miller § 3702 (Supp. 1998).

On October 14, 2021, the parties filed a stipulation in this case that states: “The damages sought by the Plaintiff in this action at the initial time of filing in State Court, including all costs and fees, did not and do not exceed the sum or value of Seventy-Four Thousand, Nine Hundred Ninety-Nine and 00/100 Dollars (\$74,999.00).” [ECF No. 37]. Plaintiff further stipulates that if she receives a verdict or judgment in an amount greater than \$74,999, she will consent to having the trial court reduce the amount to equal or less than \$74,999. *Id.*

As a result of Plaintiff’s stipulation, to which she is bound, that the amount in controversy for her demand does not exceed \$75,000, this court lacks subject matter jurisdiction and remands the action to the Court of Common Pleas for Richland County. No costs shall be imposed, as removal was not improper given the facts then known to Defendant.

IT IS SO ORDERED.

October 15, 2021
Columbia, South Carolina



Shiva V. Hodges
United States Magistrate Judge